

OGC Has Reviewed

11 May 1973

MEMORANDUM FOR: Acting Chief, TSD Support Staff

SUBJECT: Reimbursement to Personnel for Purchase
of Safety Glasses

1. You have requested the opinion of this Office as to the legal propriety of reimbursing certain TSD employees for the cost of prescription safety glasses.

2. It is understood TSD management has determined that employees who work with high-speed drills, chemicals and other dangerous things must wear some form of eye protection. An employee whose vision is not corrected by prescription eyeglasses wears safety goggles that are provided. Goggles, however, are not practical for an employee who must wear prescription eyeglasses. Such an employee normally purchases and wears plastic, prescription ground, safety glasses, the cost of which exceeds the eyeglasses he would normally purchase.

3. The basic law bearing on your question is found at 5 U.S.C.A. 7903.

Appropriations available for the procurement of supplies and material or equipment are available for the purchase and maintenance of special clothing and equipment for the protection of personnel in the performance of their assigned tasks.

In a 1963 opinion which is directly on point, the Comptroller General

at 42 Comp. Gen. 626, 627 cited the above statute and stated:

... (I)t is our view that... employees engaged in hazardous duties who normally wear corrective eyeglasses or other vision correctives and who, for their own protection, are required by an agency to wear safety glasses in connection with the performance of such duties may be furnished prescription ground safety glasses at Government expense, since in such a case prescription ground safety glasses would be necessary 'for the protection' of such employees 'in the performance of their assigned task.' ... Of course all safety glasses furnished the employees by the Government, including the prescription ground safety glasses, remain the property of the Government and subject to its control.

In a subsequent opinion clarifying that part of 42 Comp. Gen. 626 which dealt with reimbursement for the cost of an eye examination, he stated:

... (I)t is our view that eye refraction examinations for prescription safety glasses may be authorized at Government expense only in those instances where the employee involved had not previously worn glasses or where it is administratively determined that his present prescription (or glasses) is inadequate. B-157389, 1 June 1972.

4. Accordingly, the answer to your inquiry is as follows. You may legally reimburse the full costs of prescription ground safety glasses. These glasses, however, remain the property of the Government and subject to its control. You may also pay for the eye examinations if the conditions immediately above are met. 25X1A



Assistant General Counsel

cc: DDM&S

GMB:ks

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14 March 1973

MEMORANDUM FOR: Office of General Counsel

25X1A

ATTENTION : [REDACTED]

SUBJECT : Reimbursement to Personnel for
Purchase of Safety Glasses

1. TSD has a number of employees whose work is hazardous to the eyes. For example: laboratory personnel who work with high-speed drills, others who work with dangerous chemicals, etc. In order to protect these employee's eyes, Safety Goggles have been used. However, for those personnel requiring prescription lenses, these goggles are not practical.

2. From a local optical company we have obtained the information that safety glasses (i.e., plastic lenses) are more expensive than ordinary prescription glasses. These safety glasses look no different than ordinary glasses and may be worn by personnel not only on the job but at all times.

3. It would be appreciated if you would let us know whether we may pay for the entire cost of safety prescription glasses or only a portion of the cost.

[REDACTED]

25X1A

Acting Chief
TSD/Support Staff

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Since Mr. Corbin was returning from his temporary duty station on a workday, performed no labor or work while so doing, and the travel was not under arduous conditions, he is not entitled to overtime compensation for the travel time extending beyond his regularly scheduled hours of duty on Friday, September 28, 1962.

This case is distinguishable from that of an employee who claims overtime for travel time, after regular working hours, while performing the duty of driving a Government truck, rather than using it solely as a means of transportation to and from a point of duty and under other than arduous conditions. See B-120896, October 7, 1954; B-127979, June 22, 1956; 30 Comp. Gen. 72. Whether under other circumstances there would be actual work performed while traveling or travel performed under arduous conditions for which overtime compensation would be payable would depend on the facts of the case.

The voucher, which is returned, may not be certified for payment.

【 B-151243 】

Appropriations—Availability—Safety Glasses

Although the cost of prescription ground safety glasses (frames and lenses) which an agency requires employees to wear for their protection may be paid from appropriated funds pursuant to 5 U.S.C. 118g, which authorizes the purchase of special clothing and equipment for the protection of employees, who are engaged in hazardous duties, in the performance of their assigned tasks, the glasses to remain the property of the Government and subject to its control, the cost of eye examinations and prescriptions may not be paid by an agency, unless an employee is unable to furnish a prescription, or that a prescription cannot be made from glasses he normally wears, the necessity for prescription ground safety lenses presupposing employees normally wear or require vision correctives made up from a prescription.

To Ruth H. LaBonte, Department of Health, Education, and Welfare, May 8, 1963:

Your letter of April 4, 1963 (your reference, FIN:), requests our decision whether you may certify for payment two invoices as follows:

(1) Invoice in the amount of \$16.65 in favor of the American Optical Company billing the Northeastern Radiological Health Laboratory, Winchester, Mass. for prescription eye glasses (frames and lenses) for an employee of the Laboratory, Mr. Casper Hegge.

(2) Invoice in the amount of \$10 in favor of Dr. Jerome Roberts, Optometrist, 458 Main Street, Woburn, Mass. covering eye examination and prescription for the purchase of safety glasses for the same employee.

You advise that these invoices were paid by the cashier and included as subvouchers in his replenishment voucher.

The record discloses that the management of the Northeastern Radiological Health Laboratory, Public Health Service, Department of Health, Education, and Welfare, after a thorough review of its safety programs determined that safety glasses were necessary for the safety of employees working with toxic chemicals, abrasives and

radioactive materials. Accordingly, personnel working with these materials have been ordered and required to wear safety glasses. Hence, it was felt that the Public Health Service should pay for the prescriptions as well as the frames and lenses.

The record discloses that the reasons for ordering the type of safety glasses used rather than goggles or other type safety devices are as follows:

1. Those who must wear glasses could not substitute a goggle unless it is to be a prescription lens.
2. It is not practical to wear goggles on a continuous basis as our bench chemists, chemistry technicians and maintenance personnel would be required to do so if they did not have safety glasses.
3. To require a shielding over an individual's glasses for a full shift would place an uncomfortable weight on the bridge of the nose and cause the glass to constantly slip down.
4. Although prescription safety lenses are an item only of use to the individual for whom they are ground, their weight plus that of the frames does not provide a "comfortable" pair of glasses to be used as a substitute for regular glasses.

Section 13 of the act of August 2, 1946, Ch. 744, 60 Stat. 809, 5 U.S.C. 118g, provides that—

Sec. 13. Appropriations available for the procurement of supplies and material or equipment shall be available for the purchase and maintenance of *special clothing and equipment for the protection of personnel in the performance of their assigned tasks.* [Italics supplied.]

In view of the above-cited provisions of law there is no question but that an agency's appropriations may be used to purchase safety glasses for the protection of employees engaged in hazardous duties. See 32 Comp. Gen. 229. Further, it is our view that under this provision of law employees engaged in hazardous duties who normally wear corrective eyeglasses or other vision correctives and who, for their own protection, are required by an agency to wear safety glasses in connection with the performance of such duties may be furnished prescription ground safety glasses at Government expense, since in such a case prescription ground safety glasses would be necessary "for the protection" of such employees "in the performance of their assigned tasks." Accordingly, the cashier may be reimbursed the amount (\$16.65) paid the American Optical Company for prescription ground safety glasses (frames and lenses) for Mr. Hegge. Of course all safety glasses furnished the employees by the Government, including the prescription ground safety glasses, remain the property of the Government and subject to its control.

Concerning the cost of the eye examination and prescription, the necessity for prescription ground safety lenses presupposes that the employee involved normally wears or requires some type of vision correctives made up from a prescription. Therefore, in the absence of a showing that Mr. Hegge was unable to furnish a prescription

from which the prescription ground safety glasses could be made, or that a prescription could not be made from his present glasses, i.e., from the glasses he normally wears, the cashier may not be reimbursed for the amount paid to Dr. Jerome Roberts for the eye examination of Mr. Hegge.

The invoices submitted are returned herewith.

【 B-151033]

Mileage—Military Personnel—Public Business Travel Necessity—Personal Convenience Transfer Orders Changed

A Navy member transferred at his request, for his convenience, at no cost to the Government to a ship which is deployed before he is required to report aboard, who when his services are requested by the ship's commanding officer is directed under an endorsement to his permissive orders to travel to join the ship is entitled to a mileage allowance, the travel constituting entitlement to the permanent change of station allowance contemplated by paragraph 4150 of the Joint Travel Regulations under the permissive orders modified for the convenience of the Government, and the member having traveled beyond the place designated in his original orders on public business, the expenses of the travel are the obligation of the Government and he may be paid a mileage allowance and credited for the leave charged for the travel time.

To Lieutenant (jg) D. N. Hull, Department of the Navy, May 9, 1963:

By second indorsement dated February 18, 1963, the Comptroller of the Navy forwarded here your letter of January 4, 1963, requesting an advance decision as to the entitlement of Howard Eugene Moser, 285 02 69, DCCA, USN, to mileage allowance for travel performed from Norfolk, Virginia, to Key West, Florida, incident to his permanent change of station orders of November 5, 1962. The request for decision was assigned Control No. 63-4 by the Per Diem, Travel and Transportation Allowance Committee.

The record shows that on October 9, 1962, the member who was assigned to duty on board the U.S.S. *Sturdy* (MSO-494) requested that he be transferred to any ship or station in the Severn River Naval Command, Potomac River Naval Command or the Norfolk, Virginia, area with the understanding that if the request for transfer was granted he would bear all expenses involved and that there would be no cost to the Government. By orders dated November 5, 1962, he was ordered to report for duty not later than November 16, 1962, to the Commanding Officer, U.S.S. *Oxford* (AG-159), at Norfolk, Virginia, with delay of 10 days en route to count as leave. In the orders it was stated that the transfer was authorized at the member's request for personal convenience and was to be executed at no cost to the Government. The orders also provided that in case the member did not desire to bear the expense of the transfer he should regard the authorization as revoked.

Shirley



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-157389

JUN 1 1972

Dear Mr. Secretary:

Reference is made to our letter of January 21, 1972, B-157389, to you concerning that element of the Air Force occupational vision program, as set forth in AFR 160-112 (2 June 1961, with change 1 dated 22 June 1967), which authorizes eye refraction examinations for civilian employees who are to be supplied with prescription safety eyewear. Under paragraph 3 of the regulation such examinations are provided, without cost to the employee, through Government medical facilities or by contract with private refractionists. We noted that under paragraph 14b an existing prescription for corrective lenses may be accepted in lieu of a new refraction examination if minimum visual standards are met by that prescription. However, we indicated our impression that the general practice under AFR 160-112 is to provide such examinations in all cases, while acceptance of an existing prescription is considered only at the request of an employee.

We expressed reservations concerning the propriety of the Air Force practice in light of our decision at 42 Comp. Gen. 626 (1963), which approved the expenditure of appropriated funds to purchase prescription safety eyewear but declined to extend such authority to payment of eye refraction examinations in connection therewith absent a showing that an adequate prescription could not be otherwise obtained. We indicated that the Department of the Army in its regulations (AR 40-5) treats eye refraction examination for safety glasses as the responsibility of the employee. In view of the foregoing, we requested a response to the following questions:

1. Does the Air Force follow a general practice of providing refraction examinations for civilian employees who require prescription safety eyewear?
2. If so, how is this practice justified, particularly in view of our decision at 42 Comp. Gen. 626?
3. Is there any reason why the Air Force program should not be modified by making application of paragraph 14b of AFR 160-112 mandatory?
4. Are there any circumstances in which application of paragraph 14b would not serve to render the provision of refraction examinations unnecessary?

PUBLISHED DECISION
51 Comp. Gen.

B-157389

By letter dated March 24, 1972, from Walter A. Willson, Office of the General Counsel, Department of the Air Force, we are advised that the Air Force does generally furnish refraction examinations under the circumstances described herein. The basic position of Air Force is stated by Mr. Willson as follows:

"* * * The Air Force practice rests, in the final analysis, on the need to obtain reasonable assurance that prescription safety glasses being provided at Government expense are in fact fully suitable for their intended purpose. The Surgeon General of the Air Force has determined that, in the absence of such assurance, acceptance of preexisting prescriptions is imprudent from both a medical as well as a safety standpoint. It is his professional judgment that the relatively small additional expense of a current examination is more than offset by the additional degree of protection against the dangers inherent in eye hazardous environments. Were this requirement to be relaxed, there would be a significant increase in the risk of visual impairment, damage to Government property and even physical injury to the employee and his co-workers. * * *"

Mr. Willson distinguishes our decision at 42 Comp. Gen. 626 on the basis that there was no indication therein of an administrative determination that considerations of safety and employee well-being required that prescription safety eyewear be ground only from very recent prescriptions, or that a degree of control over examinations be retained. On the other hand, it is stated that the Department of the Air Force had made such determinations with respect to its occupational vision program. Finally concerning the possibility of making mandatory paragraph 14b of AFM 16 it is stated in the enclosure to Mr. Willson's letter that:

"The Department of the Air Force would prefer to avoid acceptance of 'outside' prescriptions as a general rule. It is not advisable from a medical or safety standpoint to utilize a prescription which a visually deficient worker has obtained in the past, when equipping him with prescription safety glasses for eye-hazardous work. The Air Force has an obligation to protect the interest of the government and of fellow workers of the employee involved, as well as those of the employee himself. This obligation cannot be fulfilled unless all measures reasonably available are utilized to assure that the visually

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deficient employee in an eye-hazardous job is not a hazard to himself or his fellow workers and is not further impairing his vision. To this end, the regulation prescribes initial eye examinations and periodic eye examinations and permits the Air Force a degree of control over the conduct of the examinations."

Our decision at 42 Comp. Gen. 626 approving the provision of prescription safety eyewear for the protection of visually deficient employees in eye-hazardous jobs, was based upon section 13 of the act approved August 2, 1946, ch. 744, 60 Stat. 809, reenacted and codified at 5 U.S.C. 7903, which states in part:

"§ 7903. Protective clothing and equipment.

"Appropriations available for the procurement of supplies and material or equipment are available for the purchase and maintenance of special clothing and equipment for the protection of personnel in the performance of their assigned tasks. * * *

In addition, section 19(a) of the Occupational Safety and Health Act of 1970, approved December 29, 1970, Pub. L. 91-596, 84 Stat. 1609, 29 U.S.C. 668(a), requires each Federal agency to establish and maintain an effective and comprehensive occupational safety and health program. See also, 5 U.S.C. 7902. Thus the authority of the Air Force to supply prescription safety eyewear where necessary for the protection of employees is unquestioned.

As to the cost of the eye refraction examinations, in 42 Comp. Gen. 626 we held, in effect, that in the absence of a showing that the employee involved was unable to furnish a prescription from which prescription ground safety glasses could be made, or that a prescription could not be made from the employee's present glasses (i.e., from the glasses he normally wears), the cost of eye refraction examinations was not for payment by the Government.

Our holding in that case was not intended to preclude eye refraction examinations at Government expense for visually deficient employees requiring prescription safety glasses in those instances where the employee involved had not previously worn glasses or where incident to a visual survey an employee's existing prescription was administratively determined to be inadequate (i.e., visually deficient). 42 Comp. Gen. 626 is clarified accordingly. However, to the extent that AR-160-112 authorizes eye

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refraction examinations at Government expense without requiring an administrative determination as to the adequacy of the employee's existing prescription (or glasses), it is our view that the regulation in question should be amended so as to make clear that eye refraction examinations for prescription safety glasses may be authorized at Government expenses only in those instances where the employee involved had not previously worn glasses or where it is administratively determined that his present prescription (or glasses) is inadequate.

Sincerely yours,

Paul G. Dembling

Acting Comptroller General
of the United States

The Honorable
The Secretary of the Air Force